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10/705,567

11/10/2003

Artemio Castro

CM-2691M

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27752

7590

11/30/2006

EXAMINER

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ART UNIT

PAPER NUMBER

1751

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,567

Applicant(s)

CASTRO ET AL.

Examiner

Lorna M. Douyon

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11-17 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-17 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 30, 2006 has been entered.

2. Claims 1-8, 11-17 and 24 are pending. Claims 9-10, 18-23 and 25-33 were cancelled. Independent claims 1, 17 and 24 are currently amended.

Claim Rejections - 35 USC § 112

3. Claims 11-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of claims 11 and 12 are dependent from cancelled claim 10. Presumably this claim depends from claim 1. The phrase "the silica" in line 1 of each claim also lacks support with respect to claim 1.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 1751

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 4-6, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narula et al. (US Patent No. 6,617,294), hereinafter "Narula".

Narula teaches a liquid cleansing product that is not water-based (see col. 1, lines 40-41), and comprises one or more alcohols (see col. 2, lines 25-31), from about 0 wt% to about 5 wt% humectant (see col. 2, lines 60-66), for example isopropyl myristate (see col. 4, line 5) (which also reads on surfactant) and from about 0 wt% to about 6.5 wt% thickener which may be a cellulose-based material, fumed silica (fumed silicon dioxide) (equivalent to the water-transfer agent of the present claims), or a combination thereof, such as methyl cellulose (whose molecular weight reads on those recited) added at concentrations of about 0 wt% to about 1.5 wt% used in combination with fumed silica added at concentrations of about 0 wt% to about 5.0 wt% (see col. 2, line 67 to col. 3, line 6). The product may optionally contain antimicrobial agents from about 2 wt% to about 3.75 wt%, for example benzalkonium chloride (which also reads on surfactant). The product can be incorporated into a woven or non-woven wipe (see col. 3, lines 56-57). In Example 1, Narula teaches a sanitizing hand cleanser comprising about 4.5 wt% isopropyl myristate, about 0.6 wt% methylated cellulose and about 2.0 wt% fumed silica (see col. 4, lines 1-26). Narula, however, fails to specifically disclose the sanitizing hand cleanser in a woven or non-woven wipe, the quantity of the cleanser applied to the wipe and a uniform layer of the cleaner on the wipe.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sanitizing hand cleanser comprising isopropyl myristate (a

Art Unit: 1751

surfactant), methylated cellulose thickener and fumed silica in their optimum proportions into a woven or non-woven wipe because Narula specifically desires his product to be incorporated into said wipes because wipes with the sanitizing cleanser make for a convenient product for cleansing a practitioner's hands or a local portion of a patient before or after examination as taught by Narula in col. 3, lines 55-60. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the cleanser to the wipe in a quantity within those recited because such applied quantity is the working range of the cleanser in a wipe for its intended sanitizing use, and to have applied the cleanser to the wipe in a uniform manner because Narula teaches that the product is incorporated into the wipe, hence, such incorporation would provide a uniform layer on the wipe.

6. Claims 3, 7-8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narula as applied to the above claims, and further in view of Fabry et al. (US Patent No. 6,013,616), hereinafter "Fabry".

Narula teaches the features as described above. Narula, however, fails to disclose the thickener being xanthan gum or high molecular weight polyvinyl alcohol.

Fabry, in an analogous art, teaches the equivalency of cellulose derivatives with xanthan gum and high molecular weight polyvinyl alcohol as thickeners in a similar composition (see col. 6, lines 13-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the methyl cellulose thickener of Narula with xanthan gum or high

Art Unit: 1751

molecular weight polyvinyl alcohol because the substitution of art recognized equivalents as shown by Fabry is within the level of ordinary skill in the art.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Narula as applied to the above claims, and further in view of Beerse et al. (US Patent No. 6,190,674), hereinafter "Beerse".

Narula teaches the features as described above. Narula, however, fails to disclose the surface area and particle size of the fumed silica.

Beerse, in an analogous art, teaches that fumed silica has a mean agglomerate particle size ranging from about 0.1 micron to about 100 microns, which agglomerates are composed of aggregates which have a mean particle size ranging from about 0.01 microns to about 15 microns, and the silica has a surface area greater than 50 sq.m/gram (see col. 16, lines 47-59).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the fumed silica of Narula to have a surface area and particle size within those recited because it is known from Beerse that fumed silica has a particle size and surface area which overlaps those recited.

8. In the alternative, claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Narula as applied to the above claims, and further in view of Suazon et al. (US Patent No. 6,652,869), hereinafter "Suazon".

Narula teaches the features as described above. Narula, however, fails to disclose a wipe wherein the cleaning composition is applied to the wipe in a uniform or stripe pattern.

Art Unit: 1751

Suazon, in an analogous art, teaches that in the preparation of a cleaning wipe, the cleaning composition is impregnated into the wipe in an even coating across the surface of the wipe, or in a random or definite pattern, such as stripes (see abstract; col. 6, lines 24-28).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to impregnate the wipe of Narula with the composition in a uniform or stripe pattern because it is shown from Suazon that such impregnation is known in the preparation of cleaning wipes.

9. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Narula as applied to the above claims, and further in view of Gorlin et al. (US Patent No. 6,720,301), hereinafter "Gorlin".

Narula teaches the features as described above. Narula, however, fails to disclose a wipe or substrate having a first and second layer as those recited.

Gorlin teaches a cleaning wipe which is a multi-layer fabric composite (see col. 1, lines 10-11) which comprises a top layer of fine or coarse fibers, a bottom layer of fine and coarse fibers and a center layer (see col. 1, lines 41-50), wherein the bottom and top layers may have different textures and abrasiveness (see col. 11, lines 25-26) and examples for materials used for the top and bottom layers are non woven materials (see col. 11, lines 36-46), which are bonded together by needlepunch or thermal bonding (see col. 11, lines 52-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wipe of Narula with the multi-layer fabric composite of Gorlin because

Art Unit: 1751

the multi-layer fabric composite provides sufficient wet strength, abrasivity, loft and porosity as taught by Gorlin in col. 11, lines 37-38).

Response to Arguments

10. Applicant's arguments filed October 30, 2006 have been fully considered but they are not persuasive.

With respect to the rejection based upon Narula, Applicants argue that this reference does not establish a *prima facie* case of obviousness because this reference does not disclose the water-transfer agent which is selected from the group consisting of inorganic oxides and salts. Applicants also argue that the statement that the statement that it would have been obvious to one of skill in the art to apply a cleanser to a wipe in a uniform manner or in stripe pattern because it is an obvious design choice is completely unsupported by the teaching or discussions in Narula.

The Examiner respectfully disagrees with the above arguments because Narula teaches fumed silica (fumed silicon dioxide) in col. 3, lines 1-2 which reads on the water-transfer agent of the present claims. With respect to the application of the cleanser to the wipe in uniform manner, as stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have applied the cleanser to the wipe in a uniform manner because Narula teaches that the product is incorporated into the wipe, hence, such incorporation would provide a uniform layer on the wipe. Please see paragraph 8 above for the discussion on uniform and stripe pattern application of the composition to the wipe.

Art Unit: 1751

With respect to the rejection based upon Narula in view of Fabry, Narula in view of Beerse, and Narula in view of Gorlin, Applicants argue that Narula fails to disclose the water transfer agent.

The response to Narula above apply here as well.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
LORNA M. DOUYON
PRIMARY EXAMINER